



## Armenian authorities are responsible for the ineffective investigation into the death of a military conscript in the Nagorno Karabakh Republic

The case [Muradyan v. Armenia](#) (application no. 11275/07) concerned the death of a military conscript, Suren Muradyan, based in the (unrecognised) Nagorno Karabakh Republic. His father, the applicant in the case, alleged that he had died following ill-treatment by his superiors.

In today's **Chamber** judgment<sup>1</sup> in the case the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 2 (right to life)** of the European Convention on Human Rights as concerned both the death of Suren Muradyan as well as the related investigation.

First, the Court recalled that it had already found in previous judgments that Armenia exercised effective control over Nagorno Karabakh and the surrounding territories. Suren Muradyan's death and the ensuing investigation therefore fell within the jurisdiction of Armenia, thus engaging Armenia's responsibility under the European Convention.

The Court found in particular that the official explanation for Suren Muradyan's fatal injury – a ruptured spleen – had not been plausible. While there had been sufficient evidence to suggest that Suren might have sustained that injury as a result of ill-treatment by high-ranking officers, neither the Karabakhi nor the Armenian authorities had actively pursued that line of inquiry. They had instead mostly focused their attention on a public argument that he had had with one of his military unit's officers and concluded that his spleen, allegedly enlarged due to malaria, had erupted following accidental physical contact during that argument. The Court considered that that conclusion had not been reached following an effective and objective investigation. Indeed, the entire investigation, including all the medical expertise (notably conflicting and inconclusive explanations as to Suren's malaria diagnosis), appeared to have been geared towards justifying the narrative that Suren's ruptured spleen had occurred through light contact with his abdomen, even though that explanation had only been put forward two years after the incident by one of the implicated officers, whose objectivity as a witness could itself be called into question.

### Principal facts

The applicant, Hrachya Muradyan, is an Armenian national who was born in 1956 and lives in Baghramyan village (Armenia).

Suren Muradyan was drafted into the Armenian army in June 2001 and assigned to a military unit based in the (unrecognised) Nagorno Karabakh Republic. On or around 24/25 July 2002 he started to feel unwell, having a temperature, muscle pain, headaches and nausea. Two military doctors visited him and gave him paracetamol. His condition having deteriorated, on 3 August 2002 he was hospitalised with suspected malaria. The next day his condition worsened further: he lost consciousness and his pulse disappeared. Doctors failed to resuscitate him and his death was registered at 9.15 p.m. The results of a blood test the same day showed no trace of malaria.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

The Karabakhi authorities immediately ordered a post-mortem examination, including an autopsy. The following day the examiner made his initial conclusion about the cause of death, reporting to the Karabkhi investigator that Suren Muradyan had died from internal bleeding due to a ruptured spleen and that the injury to his spleen had involved old and new bruises. The Karabkhi investigator thus decided to institute criminal proceedings for intentional infliction of grave bodily harm resulting in death.

During the subsequent inquiry, the Karabakhi investigating authorities interviewed a number of servicemen. On 7 August 2002 a group of servicemen from Suren's military unit suggested that there had been conflict between Suren and two of his officers over an allegedly stolen watch. The group of servicemen stated in particular that they had witnessed an argument between Suren and the two officers on 21 July 2002 during which one of the officers had grabbed Suren's hand and removed the watch. They also explained that Suren had, over the next few days, been taken to the office of the military unit's acting commander to reveal the identity of the person who had allegedly stolen the watch and return another watch which had also apparently been lost. The two officers were questioned a few days later and the acting commander ten days later; they denied any ill-treatment. A further two servicemen, who had been summoned to the acting commander's office at the same time as Suren about the allegedly stolen watches, were also questioned; they stated however that they were not aware of Suren having been subjected to any ill-treatment.

The investigation into Suren Muradyan's death was then taken over by the Armenian prosecuting authorities in July 2003. Further interviews took place. In October 2003 one of the servicemen, G.M., who had also been summoned to the acting commander's office about the stolen watch/es, confirmed a statement he had made a few months earlier in which he had admitted that the acting commander had ill-treated him. In April 2004 one of the implicated officers, V.G. was questioned again; it transpired that he had not previously told the whole truth and that there had actually been some accidental contact with Suren Muradyan's abdomen during the argument of 21 July 2002. The official investigation eventually concluded that Suren Muradyan's ruptured spleen was explained by this accidental physical contact. Further medical reports were drawn up which confirmed this explanation as well as the initial suspected diagnosis of malaria; the latter was relied on to explain why Suren's spleen was enlarged and could have erupted even from light contact.

On completion of this investigation in April 2005, three defendants – officer V.G. as well as two military doctors – were indicted. The prosecutor decided, however, not to prosecute the acting commander of the military unit for beating G.M. as the commander had no criminal record and regretted his actions.

In the ensuing court proceedings officer V.G. and the two military doctors were found guilty. V.G. was sentenced to five years' imprisonment. The two military doctors were ultimately also sentenced to four years and three and a half years' imprisonment, respectively, but were granted amnesty and released.

Allegations made during the appeal proceedings by two servicemen who had been in hospital with Suren just before he died and who submitted that he had told them that he had been ill-treated by his superiors were dismissed. The Court of Appeal found, however, that these submissions were not sufficient for bringing harsher charges against officer V.G. or for remitting the case for further investigation against the other officers involved.

## Complaints, procedure and composition of the Court

Mr Muradyan alleged that his son had died as a result of ill-treatment by his superiors as well as of the failure to provide him with adequate medical assistance. He also submitted that the authorities had failed to carry out an effective investigation into the incident; indeed they had even used the entire investigative machinery to make a false account of his son's fatal injury look plausible. He

relied on Article 2 (right to life), Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy).

The application was lodged with the European Court of Human Rights on 12 March 2007.

Judgment was given by a Chamber of seven judges, composed as follows:

Mirjana **Lazarova Trajkovska** (“the former Yugoslav Republic of Macedonia”), *President*,  
Ledi **Bianku** (Albania),  
Kristina **Pardalos** (San Marino),  
Aleš **Pejchal** (the Czech Republic),  
Armen **Harutyunyan** (Armenia),  
Pauliine **Koskelo** (Finland),  
Tim **Eicke** (the United Kingdom),

and also Abel **Campos**, *Section Registrar*.

## Decision of the Court

### Jurisdiction (Article 1)

Mr Muradyan’s son had died during his compulsory military service in the armed forces of the (unrecognised) Nagorno Karabakh Republic, outside the territory of Armenia. The initial and most crucial part of the investigation into his death had been carried out not by the Armenian but by the Karabakhi authorities. The Court therefore decided to examine whether the death of Mr Muradyan’s son could be considered to fall under the jurisdiction of the Armenian Government.

The Court recalled that in a recent leading case<sup>2</sup> it had found that Armenia exercised effective control over Nagorno Karabakh and the surrounding territories. Armenia was therefore obliged to secure in that area the rights and freedoms set out in the European Convention. Moreover, its responsibility under the Convention was not limited to the acts of its own soldiers or officials operating in Nagorno Karabakh, but extended to the acts of the local administration which survived by virtue of the Armenian military and other support.

Consequently, the Court concluded that Mr Muradyan’s complaints about the death of his son and the ensuing investigation fell within the jurisdiction of Armenia, thus engaging Armenia’s responsibility under the Convention.

### Investigation into Suren Muradyan’s death (procedural aspect of Article 2)

There was no dispute between the parties that Suren Muradyan had died from a ruptured spleen. The Court, however, had doubts as to the official explanation – namely accidental contact with Suren’s abdomen during an argument in public with his superiors – for that fatal injury. Indeed, while there had been sufficient evidence to suggest that Suren might have sustained that injury as a result of ill-treatment by high-ranking officers, the authorities had failed to actively pursue that line of inquiry.

The Court noted in particular a number of serious flaws in the investigation.

First, witness statements obtained from other servicemen suggested that Suren had only started to feel unwell after he had been taken on a number of occasions to the office of his military unit’s acting commander, that is to say after the argument in public with his superiors. Despite this evidence, the three high-ranking officers concerned had not immediately been isolated and had only

<sup>2</sup> Namely, [Chiragov and Others v. Armenia](#) (application no. 13216/05) of 16 June 2015.

been questioned two, three and ten days later. Those officers' denial of any ill-treatment during their questioning had been readily accepted, without further inquiries.

Furthermore, as concerned the two servicemen who had been summoned to the acting commander's office at the same time as Suren, it could not be ruled out that they had not spoken of any ill-treatment when making their statements because they feared reprisals in the military unit where they were still serving. Nor had the authorities taken any protective measures – such as those servicemen's transfer to another unit – to guarantee their safety.

What was particularly striking was that the investigating authorities had given no importance to the fact that the unit's acting commander had been implicated in inflicting violence on one of the other servicemen, G.M., also summoned to his office in the context of the same story. Even when two witnesses – who had had contact with Suren in hospital shortly before he died – explicitly stated that he had told them that he had been ill-treated by three of his officers, the authorities had not changed the focus of their investigation, namely the public argument with his superiors.

Indeed, the entire investigation, including all the medical expertise (notably conflicting and inconclusive explanations as to Suren's malaria diagnosis), appeared to have been geared towards justifying the narrative that Suren's ruptured spleen had occurred through accidental contact, even though that explanation had only been put forward two years after the incident by one of the implicated officers, whose objectivity as a witness could itself be called into question.

Moreover, no attempts had been made at all to clarify whether it had been medically possible for Suren to start feeling unwell from 24 July 2002, if the injury to his spleen had been sustained on 21 July 2002 during the argument with his superiors.

Lastly, the Court could not ignore a report by the Human Rights Commissioner of the Council of Europe referring to various forms of ill-treatment in the Armenian army and non-combat deaths, as well as a lack of accountability for those issues.

The Court therefore concluded that the authorities had failed to carry out an effective investigation into the circumstances in which Suren Muradyan had sustained a ruptured spleen and died, in violation of Article 2.

### [Suren Muradyan's death \(substantive aspect of Article 2\)](#)

Having concluded that the investigation had been ineffective, the Court considered that the authorities had not provided a plausible explanation for the injury sustained by Suren Muradyan and his ensuing death, in further violation of Article 2.

### [Allegations of ill-treatment and inadequate medical assistance \(Articles 2, 3 and 13\)](#)

Given the findings under Article 2, the Court considered that there was no need to examine separately the complaints brought under Articles 2, 3 and 13 about inadequate medical assistance, Suren Muradyan's alleged ill-treatment by his superiors and the failure of the authorities to carry out an effective investigation into those allegations.

### [Just satisfaction \(Article 41\)](#)

The Court held that Armenia was to pay Hrachya Muradyan 50,000 euros (EUR) in respect of non-pecuniary damage and EUR 165 for costs and expenses.

*The judgment is available only in English.*

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